

AMENDED IN SENATE MAY 20, 2004

AMENDED IN SENATE APRIL 22, 2004

AMENDED IN SENATE APRIL 16, 2004

## SENATE BILL

No. 1618

### Introduced by Senator Battin

(Principal coauthor: Assembly Member Nakanishi)

February 20, 2004

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An act to amend Section 226 of the Labor Code, relating to employee compensation.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1618, as amended, Battin. Employee compensation.

Existing law requires every employer to, at the time of each payment of wages, furnish each employee with an accurate itemized statement showing, among other things, the name of the employee and his or her social security number. *Existing law exempts the state or a city, county, city and county, district, or other governmental entity from these provisions.* Existing law provides that a knowing and intentional violation of this provision is a misdemeanor.

This bill would, instead, require an employer to furnish each employee with an accurate itemized statement showing no more than the last 4 digits of the employee's social security number or an existing employee identification number other than a social security number. *The bill would additionally require the state, or any city, county, city and county, district, or any other governmental entity, if it furnishes its employees with a check, draft, or voucher paying the employee's wages, to use no more than the last four digits of the employee's social security number or to use an existing employee identification number other than*

*the social security number on that check, draft, or voucher.* By requiring ~~the state, counties, and cities~~ *an employer* to furnish each employee with an accurate itemized statement showing no more than the last 4 digits or less of the employee's social security number, or an existing employee identification number other than a social security number, the violation of which is a misdemeanor, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 226 of the Labor Code is amended to  
2 read:  
3 226. (a) Every employer shall, semimonthly or at the time of  
4 each payment of wages, furnish each of his or her employees,  
5 either as a detachable part of the check, draft, or voucher paying  
6 the employee's wages, or separately when wages are paid by  
7 personal check or cash, an accurate itemized statement in writing  
8 showing (1) gross wages earned, (2) total hours worked by the  
9 employee, except for any employee whose compensation is solely  
10 based on a salary and who is exempt from payment of overtime  
11 under subdivision (a) of Section 515 or any applicable order of the  
12 Industrial Welfare Commission, (3) the number of piece-rate units  
13 earned and any applicable piece rate if the employee is paid on a  
14 piece-rate basis, (4) all deductions, provided that all deductions  
15 made on written orders of the employee may be aggregated and  
16 shown as one item, (5) net wages earned, (6) the inclusive dates of  
17 the period for which the employee is paid, (7) the name of the  
18 employee and no more than the last four digits of his or her social  
19 security number or an existing employee identification number  
20 other than a social security number, (8) the name and address of  
21 the legal entity that is the employer, and (9) all applicable hourly  
22 rates in effect during the pay period and the corresponding number

1 of hours worked at each hourly rate by the employee. The  
2 deductions made from payments of wages shall be recorded in ink  
3 or other indelible form, properly dated, showing the month, day,  
4 and year, and a copy of the statement or a record of the deductions  
5 shall be kept on file by the employer for at least three years at the  
6 place of employment or at a central location within the State of  
7 California.

8 (b) An employer that is required by this code or any regulation  
9 adopted pursuant to this code to keep the information required by  
10 subdivision (a) shall afford current and former employees the right  
11 to inspect or copy the records pertaining to that current or former  
12 employee, upon reasonable request to the employer. The employer  
13 may take reasonable steps to assure the identity of a current or  
14 former employee. If the employer provides copies of the records,  
15 the actual cost of reproduction may be charged to the current or  
16 former employee.

17 (c) An employer who receives a written or oral request to  
18 inspect or copy records pursuant to subdivision (b) pertaining to  
19 a current or former employee shall comply with the request as soon  
20 as practicable, but no later than 21 calendar days from the date of  
21 the request. A violation of this subdivision is an infraction.  
22 Impossibility of performance, not caused by or a result of a  
23 violation of law, shall be an affirmative defense for an employer  
24 in any action alleging a violation of this subdivision. An employer  
25 may designate the person to whom a request under this subdivision  
26 will be made.

27 (d) This section does not apply to any employer of any person  
28 employed by the owner or occupant of a residential dwelling  
29 whose duties are incidental to the ownership, maintenance, or use  
30 of the dwelling, including the care and supervision of children, or  
31 whose duties are personal and not in the course of the trade,  
32 business, profession, or occupation of the owner or occupant.

33 (e) An employee suffering injury as a result of a knowing and  
34 intentional failure by an employer to comply with subdivision (a)  
35 is entitled to recover the greater of all actual damages or fifty  
36 dollars (\$50) for the initial pay period in which a violation occurs  
37 and one hundred dollars (\$100) per employee for each violation in  
38 a subsequent pay period, not exceeding an aggregate penalty of  
39 four thousand dollars (\$4,000), and is entitled to an award of costs  
40 and reasonable attorney's fees.

1 (f) A failure by an employer to permit a current or former  
2 employee to inspect or copy records within the time set forth in  
3 subdivision (c) entitles the current or former employee or the  
4 Labor Commissioner to recover a seven-hundred-fifty-dollar  
5 (\$750) penalty from the employer.

6 (g) An employee may also bring an action for injunctive relief  
7 to ensure compliance with this section, and is entitled to an award  
8 of costs and reasonable attorney's fees.

9 (h) *This section does not apply to the state, to any city, county,*  
10 *city and county, district, or to any other governmental entity,*  
11 *except that if the state or a city, county, city and county, district, or*  
12 *other governmental entity furnishes its employees with a check,*  
13 *draft, or voucher paying the employee's wages, the state or a city,*  
14 *county, city and county, district, or other governmental entity shall*  
15 *use no more than the last four digits of the employee's social*  
16 *security number or shall use an existing employee identification*  
17 *number other than the social security number on that check, draft,*  
18 *or voucher.*

19 SEC. 2. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 the only costs that may be incurred by a local agency or school  
22 district will be incurred because this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the penalty  
24 for a crime or infraction, within the meaning of Section 17556 of  
25 the Government Code, or changes the definition of a crime within  
26 the meaning of Section 6 of Article XIII B of the California  
27 Constitution.

